

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 582 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DR. MAHIPAT MEHTA & ORS.

Versus

GEORGE JOSEPH, COLLECTOR OR HIS SUCCESSOR, KUTCH
DISTRICT, KUTCH & ORS.

Appearance:

MR GR UDHWANI for Petitioners
None present for Respondent No. 1
MR YS MANKAD for Respondent No. 2
None present for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/02/97

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The petitioners filed this Special Civil Application and prayer has been made therein for quashing and setting aside of the order annexure 'B' and further direction to the respondents No.2 and 3 to provide water connection

and light connection respectively to the second and third petitioners and the persons mentioned in annexure 'A'.

2. The facts of the case, in brief, are that the second and third petitioners and the persons mentioned in annexure 'A' are residing in the hutments of Bhuj City and they have been denied the basic and primary facilities of water and electricity connection. The second petitioner and many other persons have applied for water connection to Bhuj Municipality, Bhuj, and third petitioner and many others have applied for electricity connection to the Gujarat Electricity Board. However, they are denied the aforesaid basic services on the ground that they have put up unauthorised hutments upon the Government land as well as under the pretext of the order dated 6th April, 1983 of the first respondent. Hence, this Special Civil Application.

3. None of the respondents have filed reply to this Special Civil Application.

4. The Special Civil Application has come up for admission before this Court on 15th February, 1984, on which day notices were issued to the respondents returnable on 29th February, 1984. Then the matter has come up for admission before this Court on 22nd March, 1984. The order made by this Court on the said date reads as under:

"Mr. R.R. Shah, the learned Asstt. Government Pleader despite a pointed query is not able to reply under what provisions of law, the Collector had issued the impugned direction. In that view of the matter, there is no course left open to me, but to admit this matter, hence rule and to stay the operation of the impugned order. Rule to be heard in the month of June, 1984-third week.

So the operation of the order, annexure 'B' was stayed by this Court. Under annexure 'B', the office order has been made by the Collector, Bhuj that the Municipality and the Gujarat Electricity Board may not give water connection and electricity connection to the persons who are in unauthorised occupation of the Government land.

5. The counsel for the petitioners as well as the respondent submitted that after the interim order granted by this Court, the petitioners no.2 and 3 and the persons mentioned in annexure 'A' have been given the water connection by the Municipality concerned and electricity

connection by Gujarat Electricity Board and they are enjoying that basic amenities till date. This court has protected those persons by grant of interim relief and thereunder the respondents no.2 and 3 have given the water and electricity connection to the petitioners no.2 and 3 and the persons mentioned in Annexure 'A' and they are enjoying the same. Now the grievance with which the petitioners have come up before this Court, no more survives.

6. However, it shall be open to the respondents to decide the matter whether the petitioners no.2 and 3 and the persons mentioned in annexure 'A' have made hutments on the Government land or not. It shall be open to the respondents to decide the question regarding the unauthorised occupation of these persons on Government land. It shall be further open to the respondents to take necessary legal action for eviction of the petitioners no.2 and 3 and the persons mentioned in annexure 'A' whichever permissible to them in accordance with law. The fact that under the interim relief, the petitioners no.2 and 3 and the persons mentioned in annexure 'A' have been given the water connection and light connection will not consider as if confirming any right of occupancy of the land in dispute to these persons. However, the water connection and electricity connection which has been given to these persons shall continue till the petitioners no.2 and 3 and persons mentioned in annexure 'A' have not been dispossessed from the land in dispute by the respondent no.1 in accordance with law. The writ petition stands disposed of in the aforesaid terms. Rule stands disposed of accordingly in the aforesaid terms with no order as to costs.

zgs/-